

REMARKS

Claims 1-14 have been cancelled. Claim 15 has been amended to recite a more specific locating step as described and shown in the application at, for example, paragraph [0059]. Additionally, new claims 19 and 21 have been added. Support in the application for new claims 19 and 21 may be found at, for example, paragraph [0062] and the corresponding figures.

Regarding priority of the subject application, Applicant claims priority to both the GB and PCT application as indicated in the supplemental data sheet.

Regarding the Oath, Applicant notes that 37 CFR § 1.63 (c) provides:

Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:

- (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor; and
- (2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing.

(emphasis supplied).

In the subject application, a proper supplemental application data sheet was filed on June 7, 2004. Consequently, in accordance with Rule 1.63(c), Applicant submits that a supplemental oath is not required. However, should the Examiner insist that a supplemental oath is required, Applicant can obtain such an oath in due course.

Regarding the drawings, Applicant has amended the paragraph [0054] to refer to reference character 16.

Regarding the Abstract, Applicant has amended the Abstract as requested in the Office Action.

Regarding the objection to claim 15, Applicant has amended claim 15 as suggested in the Office Action.

Section 102 Rejection based on U.S. Patent No. 5,601,562

According to the Office Action claims 15-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,601,562 to Wolf et al. (hereafter referred to as "Wolf").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 15 now recites a claim limitation that is not found in the cited reference. In particular, amended claim 15 now recites, amongst other things, that the locating step comprises pulling on sutures holding said graft to properly locate the graft in the tunnel. This is in marked contrast to the method and devices disclosed in Wolf. Wolf discloses use of the U-shaped fork 24 to PUSH the graft into position and to conveniently allow the distal end of the implant to be inserted into the graft. Wolf does not disclose pulling the graft much less using sutures or a passing pin to do so. Because Wolf does not teach all the claim limitations set forth in claim 15, Wolf does not properly anticipate Applicant's claimed invention.

The other claims rejected in the above rejection depend from claim 15 or a claim depending thereon. Accordingly, withdrawal of the rejection of all claims under Section 102 is requested.

New Claim 21

Applicant also notes that new claim 21 recites all the steps of previous claim 15 and further adds a limitation. In particular, claim 21 recites that the suspension device additionally includes an abutment surface adapted to press the graft against the opposite wall. The above discussed Wolf patent does not disclose this limitation. Wolf provides a smooth shank sans an abutment surface. Accordingly, Applicant submits new claim 21 is also patentable over Wolf.

CLOSING COMMENTS

Applicant has made a sincere effort to respond to all issues raised in the Office Action. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 736-0224.

Respectfully submitted,



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